



Commonwealth of Massachusetts | Executive Office of Energy and Environmental Affairs

# Department of Environmental Protection

Northeast Regional Office

Address: 150 Presidential Way, Woburn, MA 01801 | Phone: 978-694-3200

**Maura T. Healey**

Governor

**Kim Driscoll**

Lieutenant Governor

**Rebecca Tepper**

Secretary

**Bonnie Heiple**

Commissioner

August 27, 2026

Lizbeth Bello

Senior Vice President

Redgate

100 Federal Street, Suite 1301

Boston, MA 02110

**RE: Public Comment Notice for  
Draft Individual Groundwater Discharge Permit  
219 Littleton Road LLC, 219 Littleton Road, Westford, MA 01886  
Accela Identifier: 26-WP79-0143-APP  
Groundwater Discharge Permit No. 1025-0**

Dear Ms. Bello:

The Massachusetts Clean Waters Act (M.G.L. c.21, s.26-53) was amended by Chapter 246 of the Acts of 1973 to authorize the Massachusetts Department of Environmental Protection (MassDEP), to regulate discharges into all waters of the Commonwealth, including groundwaters. The MassDEP regulates discharges through the issuance of discharge permits, which impose limitations on the amount of pollutants that may be discharged in the effluent, together with monitoring and reporting requirements and other conditions to ensure adequate treatment of all liquid wastes prior to discharge.

MassDEP has completed its technical review of your application submitted on behalf of the **219 Littleton Road Water Resource Recovery Facility** to discharge treated wastewater from the facility to be located at **219 Littleton Rd, Westford, MA 01886** to the ground, and has developed the conditions contained in the enclosed draft permit.

The proposed draft permit can only be considered in draft form because of provisions in the Law regulating public notice of the proposed issuance of the permit and opportunity for public comments and public hearing. Following receipt of comments on the public notice, and public hearing, if held, the MassDEP will issue its final determination to issue or deny the permit.

Enclosed herewith is a copy of the public notice for your groundwater discharge permit. The enclosed public notice should be published to start the thirty (30) day public comment period. In accordance with 314 CMR 2.06(4) and M.G.L. c.30A, the applicant or permittee, as applicable, shall publish public notice of the permit proceedings in The Environmental Monitor, a publication of the Massachusetts Environmental Policy Act (MEPA) Office. For instructions on filing this notice with MEPA please refer to MEPA's website at <https://www.mass.gov/info-details/the-environmental-monitor>.

The applicant or permittee shall copy MassDEP on the request to MEPA to publish the public notice in the Environmental Monitor and shall also notify MassDEP when the public notice is published in the Environmental Monitor. This information should be sent to the attention of **Drew Grenier** at [drew.grenier@mass.gov](mailto:drew.grenier@mass.gov). The mandatory thirty-day public comment period will commence with the date of publication of the public notice.

If you have any questions on any of the information discussed in this letter, please contact **Drew Grenier** at (857) 276-7473 or at [drew.grenier@mass.gov](mailto:drew.grenier@mass.gov).

Sincerely,

A handwritten signature in dark ink, appearing to be 'S King', with a stylized flourish at the end.

Susannah King  
Section Chief  
Wastewater Management Program

ecc: Rae Dick, Health Director, Town of Westford  
Raymond Willis, Senior Project Manager, Fuss & O'Neill  
DEP/BWR/Wastewater Management Program/Boston

PUBLIC NOTICE  
MASSACHUSETTS DEPARTMENT OF ENVIRONMENTAL PROTECTION  
BUREAU OF WATER RESOURCES/WASTEWATER MANAGEMENT PROGRAM  
150 PRESIDENTIAL WAY, WOBURN, MA 01801  
TEL#: (978) 694-3200

Notice is hereby given that the following application for an Individual Groundwater Discharge Permit is being processed and the following actions being proposed thereon pursuant to Section 43 of Chapter 21 of the General Laws, and 314 CMR 5.00 and 2.06:

CITY/TOWN: Westford

PROJECT NAME: 219 Littleton Road Water Resource Recovery Facility

APPLICANT: 219 Littleton Road LLC

FACILITY LOCATION: 219 Littleton Rd, Westford, MA 01886

TYPE OF DISCHARGE: Treated sanitary wastewater from a residential apartment complex

QUANTITY OF DISCHARGE: 52,000 gallons per day (gpd)

PERMIT NO: 1025-0

ACCELA IDENTIFIER: 26-WP79-0143-APP

PROPOSED ACTION: Tentative determination to issue individual groundwater discharge permit

A copy of the application, draft permit, and statement of basis or fact sheet relative to the draft permit may be obtained from the MassDEP's Wastewater Management Program at the above address and telephone number or online at: <https://www.mass.gov/service-details/massdep-public-hearings-comment-opportunities> or through the EEA ePlace Public Access Portal: Search EEA Projects (state.ma.us).

Comments on the proposed action or requests for a public hearing thereon pursuant to 314 CMR 2.07 must be filed with MassDEP at [massdep.nerowastewater@mass.gov](mailto:massdep.nerowastewater@mass.gov) or at the above mailing address within thirty (30) days of this notice. For information on the process for formally intervening in adjudicatory proceedings, please refer to 310 CMR 1.00: Adjudicatory Proceedings, Section (7) Intervention and Participation. <https://www.mass.gov/regulations/310-CMR-100-adjudicatory-proceedings>.

Susannah King, Section Chief, Wastewater Management Program



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### Individual Groundwater Discharge Permit Fact Sheet

#### I. APPLICANT, FACILITY INFORMATION, and DISCHARGE LOCATION

**Name and Address of Applicant:**

219 Littleton Road LLC  
c/o Lizbeth Bello, Senior Vice President  
Redgate  
100 Federal Street, Suite 1301  
Boston, MA 02110

**Name and Address of Facility where discharge will occur:**

219 Littleton Road Water Resource Recovery Facility  
219 Littleton Road  
Westford, MA 01886

**Discharge Information:**

Groundwater Discharge Permit Number: 1025-0

The Groundwater Discharge Permit will allow the applicant to discharge 52,000 gallons per day of treated sanitary wastewater from a 471-bedroom apartment complex and 1,000 square foot Leasing Office to groundwaters of the Commonwealth.

The groundwater discharge is located in the Assabet River Watershed, which is subject to a Total Maximum Daily Load (TMDL) for total phosphorus, and the Statewide TMDL for Pathogens. The groundwater discharge is not located within a Zone II or Interim Wellhead Protection Area (IWPA).

## II. LIMITATIONS AND CONDITIONS

Discharge permit limitations are as listed in the groundwater permit and are in conformance with 314 CMR 5.00, the Groundwater Discharge Permit Program.

## III. PERMIT BASIS AND EXPLANATION OF EFFLUENT LIMITATIONS

An Individual Groundwater Discharge permit is required for this discharge in accordance with the Massachusetts Clean Water Act, M.G.L. c. 21, s. 26-53 and 314 CMR 5.03.

Effluent limitations are based upon the location of the discharge, the level of treatment, consideration of human health protection criteria and protection of the groundwaters of the Commonwealth. While the discharge is located in a watershed subject to TMDLs for phosphorus and pathogens, the proximity of the discharge to affected waterbodies does not necessitate effluent limits for these pollutants.

## IV. COMMENT PERIOD, HEARING REQUESTS, AND PROCEDURES FOR FINAL DECISIONS

The public comment period for this permit is thirty (30) days following public notice in *The Environmental Monitor*. The public notice for this Individual Groundwater Discharge Permit occurred on [DATE].

Requests for an adjudicatory hearing must be submitted within thirty (30) days of the issuance/denial of the permit, by any person who is aggrieved by such issuance/denial.

A final decision on the issuance/denial of this permit will be made after the public notice period, and review of any comments received during this period.

## V. STATE CONTACT INFORMATION

Additional information concerning the draft permit may be obtained from Drew Grenier at 857-276-7473 or at [drew.grenier@mass.gov](mailto:drew.grenier@mass.gov).



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Susannah King, Section Chief  
Wastewater Management Program

8/27/2026

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Date



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## **INDIVIDUAL GROUNDWATER DISCHARGE PERMIT**

Name and Address of Applicant: **219 Littleton Road LLC**  
**100 Federal Street, Suite 1301**  
**Boston, MA 02110**

Date of Application: **June 25, 2026**  
Application Number: **26-WP79-0143-APP**  
Permit Number: **1025-0**  
Date of Issuance: **DRAFT**  
Effective Date: **DRAFT**  
Date of Expiration: **DRAFT**

### **I. AUTHORITY FOR ISSUANCE**

Pursuant to authority granted by Chapter 21, Sections 26-53 of the Massachusetts General Laws, as amended, 314 CMR 2.00, and 314 CMR 5.00, the Massachusetts Department of Environmental Protection (the Department or MassDEP) hereby issues the following permit to: **219 Littleton Road LLC** (hereinafter called "the permittee") authorizing discharges to the ground from the planned on-site wastewater treatment facility, **219 Littleton Road Water Resource Recovery Facility**, to be located at **219 Littleton Road, Westford, MA 01886**, for a 471-bedroom apartment complex and 1,000 square foot Leasing Office, such authorization being expressly conditional on compliance by the permittee with all terms and conditions of the permit hereinafter set forth.

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**Susannah King, Section Chief**  
**Wastewater Management Program**  
**Bureau of Water Resources**

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**[Date]**

## II. SPECIAL CONDITIONS

### A. Effluent Limits

- 1) The permittee is authorized to discharge into the ground from the wastewater treatment facilities for which this permit is issued a treated effluent whose characteristics, within one month of startup and continuing thereafter, shall not exceed the following values:

| <u>Effluent Characteristics</u>                                  | <u>Discharge Limitation</u>  |
|------------------------------------------------------------------|------------------------------|
| Flow                                                             | 52,000 gallons per day (gpd) |
| Biochemical Oxygen Demand<br>(BOD <sub>5</sub> ) (5-Day at 20°C) | 30 mg/l                      |
| Total Suspended Solids (TSS)                                     | 30 mg/l                      |
| Nitrate Nitrogen                                                 | 10 mg/l                      |
| Total Nitrogen<br>(NO <sub>2</sub> + NO <sub>3</sub> + TKN)      | 10 mg/l                      |
| Oil & Grease                                                     | 15 mg/l                      |

- a) The pH of the effluent shall not be less than 6.5 nor greater than 8.5 at any time or not more than 0.2 standard units outside the naturally occurring range.
- b) The monthly average concentration of BOD and TSS in the discharge shall not exceed 15 percent of the monthly average concentrations of BOD and TSS in the influent into the permittee's wastewater treatment facility.
- c) When the average annual flow exceeds 80 percent of the permitted flow limitations, the permittee shall submit a report to the Department describing what steps the permittee will take to remain in compliance with the permit limitations and conditions, inclusive of the flow limitations established in this permit.

**B. Monitoring and Reporting**

- 1) The permittee shall monitor and record the quality of the **influent** and the quality and quantity of the **effluent** prior to discharge to the leaching facilities according to the following schedule and other provisions:

**Influent**

| <b>Parameter</b>  | <b>Minimum Frequency of Analysis</b> | <b>Sample Type</b> |
|-------------------|--------------------------------------|--------------------|
| BOD <sub>5</sub>  | Monthly                              | 24-Hr. Composite   |
| TSS               | Monthly                              | 24-Hr. Composite   |
| Total Solids (TS) | Monthly                              | 24-Hr. Composite   |
| Ammonia Nitrogen  | Monthly                              | 24-Hr. Composite   |

**Effluent**

| <b>Parameter</b>                                            | <b>Minimum Frequency of Analysis</b> | <b>Sample Type</b>        |
|-------------------------------------------------------------|--------------------------------------|---------------------------|
| Flow                                                        | Daily                                | Minimum, Maximum, Average |
| pH                                                          | Daily                                | Grab                      |
| UV Intensity (%)                                            | Daily                                | Reading                   |
| BOD <sub>5</sub>                                            | Monthly                              | 24-Hr. Composite          |
| TSS                                                         | Monthly                              | 24-Hr. Composite          |
| Nitrate Nitrogen                                            | Monthly                              | 24-Hr. Composite          |
| Total Nitrogen<br>(NO <sub>2</sub> + NO <sub>3</sub> + TKN) | Monthly                              | 24-Hr. Composite          |
| Oil & Grease                                                | Monthly                              | Grab                      |
| Total Phosphorus<br>(as P)                                  | Quarterly                            | Grab                      |
| Orthophosphate (as P)                                       | Quarterly                            | Grab                      |
| Volatile Organic<br>Compounds                               | Annually                             | Grab                      |

- a) After one full year of monitoring the Total Phosphorus and Orthophosphate results, the Department may determine, upon the request of the permittee, that the frequency of monitoring may be reduced if, in the judgment of the Department, the results of the sampling indicate that existing phosphorus levels will not adversely impact downgradient receptors. If the Department reduces the frequency of monitoring for Total Phosphorus and Orthophosphate, the Department reserves the right to resume more frequent

monitoring if the Department determines that phosphorus levels are impacting downgradient receptors.

- 2) The permittee shall perform a response test and physical inspection of the sites three existing monitoring wells in accordance with the approved hydrogeological report entitled Hydrogeologic Evaluation Westford Regency 219 Littleton Road, Westford, MA, prepared by Northeast Geoscience, Inc. and dated October 8, 2025. The inspections must confirm the total depth, screened interval, and overall condition of each well. If any well shows poor responsiveness, structural damage, or is compromised during construction, the well shall be replaced at least 90 days prior to treatment facility start-up. The existing upgradient monitoring well is MW-4-86, and the existing downgradient monitoring wells are MW-2-86 and MW-3-86. Labels identifying each monitoring well in accordance with the approved plan shall be affixed to the steel protective casing of each monitoring well. The permittee shall monitor, record and report the quality of water in the approved monitoring wells according to the following schedule and other provisions:

| <b><u>Parameter</u></b>                                     | <b><u>Minimum Frequency of Analysis</u></b> | <b><u>Sample Type</u></b> |
|-------------------------------------------------------------|---------------------------------------------|---------------------------|
| pH                                                          | Monthly                                     | Grab                      |
| Static Water Level                                          | Monthly                                     | Measurement               |
| Specific Conductance                                        | Monthly                                     | Grab                      |
| Nitrate Nitrogen                                            | Quarterly                                   | Grab                      |
| Total Nitrogen<br>(NO <sub>2</sub> + NO <sub>3</sub> + TKN) | Quarterly                                   | Grab                      |
| Total Phosphorus (as P)                                     | Quarterly                                   | Grab                      |
| Orthophosphate (as P)                                       | Quarterly                                   | Grab                      |
| Volatile Organic<br>Compounds                               | Annually                                    | Grab                      |

- a) Static Water Level shall be expressed as an elevation and shall be referenced to the surveyed datum established for the site. It shall be calculated by subtracting the depth to the water table from the surveyed elevation of the top of the monitoring well's PVC well casing/riser.
- b) After one full year of monitoring the Total Phosphorus and Orthophosphate results, the Department may determine, upon the request of the permittee, that the frequency of monitoring may be reduced if, in the judgment of the Department, the results of the sampling indicate that existing phosphorus levels will not adversely impact downgradient receptors. If the Department reduces the frequency of monitoring for Total Phosphorus and Orthophosphate, the Department reserves the right to resume more frequent monitoring if the Department determines that phosphorus levels are impacting downgradient receptors.

- 3) Any grab sample or composite sample required to be taken less frequently than daily shall be taken during the period of Monday through Friday inclusive. All composite samples shall be taken over the operating day.
- 4) The permittee shall submit all monitoring reports within 30 days of the last day of the reporting month to MassDEP and to the Westford Health Department, 55 Main Street, Westford, MA 01886. All discharge monitoring reports submitted to MassDEP must be submitted through eDEP – [Learn how to register for electronic submission](#).

**C. Requirements for Private Wastewater Treatment Facilities Only**

- 1) The permittee shall comply with the single responsible entity requirements of 314 CMR 5.15(1) and (2) as applicable. The permittee shall comply with all representations and assertions made in their signed Certification for Private Wastewater Treatment Facilities (PWTFS) and Supplemental Certification for PWTFS as applicable. Unless eligible for automatic transfer under 314 CMR 5.12(5), the single responsible entity shall not change in its organizational arrangements or sell, assignment, or transfer the PWTF without prior written approval from the Department.
- 2) Financial Assurance Mechanism
  - a. The permittee shall establish, fund, and maintain a financial assurance mechanism in the form of an escrow agreement developed by MassDEP that provides for the continued availability of an immediate repair and replacement account. The immediate repair and replacement account shall contain adequate funds to correct any unanticipated problem immediately so that any disruption of operation is minimized, and a violation of the terms and conditions contained in the permit does not occur. To create an immediate repair and replacement account, the permittee shall deposit at least 25% of the estimated construction cost of the PWTF into an interest-bearing escrow account in accordance with the requirements of 314 CMR 5.10(8)(l) and 5.15. The escrow agent for the account shall be a third party acting in fiduciary capacity.
    - i. For the purpose of the financial assurance mechanism requirement, the estimated construction cost of the wastewater treatment facility shall include the cost of constructing the wastewater treatment plant, collection system, and associated mechanical equipment, but not the land and disposal area.
  - b. The permittee shall meet the obligation to establish the required financial assurance mechanism by executing an escrow agreement using the Department-approved form documents and shall submit the documents to the Department for its review and approval as follows:
    - i. A permittee that constructs the wastewater treatment facility after the issuance of the Individual permit may submit the financial assurance mechanism(s) to the Department for its review and approval no later than ninety (90) days prior to the start-up (clear water test) of the facility. Such a permittee shall not operate the facility unless and until the Department has approved the required financial assurance mechanism, the financial assurance mechanism is in full force and

effect, and the permittee has made all contributions required thirty (30) days prior to the start-up (clear water test) of the facility; or,

- ii. A permittee with a wastewater treatment facility in existence prior to the submission of the individual permit renewal application may submit the financial assurance mechanism to the Department for its review and approval no later than ninety (90) days prior to the date of submission of the individual permit renewal application. Said permittee shall be in compliance with the provision of the approved financial assurance mechanism requiring contributions to the immediate repair and replacement account no later than thirty (30) days prior to the date on which the renewal is issued.
- c. The permittee shall maintain the current form documents evidencing the required financial assurance mechanism approved by the Department. The permittee shall fulfil all its obligations under the required financial assurance mechanism as approved by the Department.
- d. Once established and funded, the permittee shall keep an amount equal to at least 25% of the estimated construction cost of the PWTF in the immediate repair and replacement account and shall replenish the account within 90 days of any disbursement.
- e. **On or before January 31st of each year**, the permittee shall submit an annual financial report identifying the initial and current balance in the immediate repair and replacement account and confirming the continuing availability of the funds in the account for the purposes specified in the permit and 314 CMR 5.10(8)(l) and 5.15. The report shall be prepared in accordance with generally accepted accounting principles. Reports pertaining to the required financial assurance mechanism(s) shall be sent to the Wastewater Management Section Chief at the appropriate Regional Office.

**D. Supplemental Conditions**

- 1) The permittee shall notify the Department at least thirty (30) days in advance of the proposed transfer of ownership of the facility covered by this permit. Said notification shall include a written agreement between the existing and new permittees containing a specific date for transfer of permit, and the proposed new transferee's assumption of responsibility for permit compliance.
- 2) If the proposed new transferee will operate a PWTF that treats at least some sewage from residential uses, hospitals, nursing or personal care facilities, residential care facilities, or assisted living facilities or that has been required to establish financial assurance mechanism(s) pursuant to 314 CMR 5.15(6), the notification shall contain sufficient information to demonstrate to the satisfaction of the Department that: 1. the proposed new transferee is in compliance with the financial assurance mechanism requirements of 314 CMR 5.15(4) and (5); and 2. all required funds have been placed in the immediate repair and replacement account.
- 3) Whereas the permittee utilizes a property management company, the permittee shall notify MassDEP within thirty (30) days of any change in property management company. The notification shall include the name of the company, mailing address, company contact name(s), telephone number(s), and email address(es).
- 4) The permittee shall submit a staffing plan for the facility to the Department once every two years and whenever there are staffing changes. The staffing plan shall include the following components:
  - a. The operator(s)'s name(s), operator grade(s) and operator license number(s);
  - b. The number of operational days per week;
  - c. The number of operational shifts per week;
  - d. The number of shifts per day;
  - e. The required personnel per shift;
  - f. Saturday, Sunday and holiday staff coverage; and
  - g. Emergency operating personnel.
- 5) The permittee is responsible for the operation and maintenance of all sewers, pump stations, grease traps, and treatment units for the permitted facility, which shall be operated and maintained under the direction of a wastewater operator certified in accordance with 257 CMR 2.00.

- 6) Operation and maintenance of the proposed facility must comply with all applicable requirements in 314 CMR 12.00, "Operation, Maintenance and Pretreatment Standards for Wastewater Treatment Works and Indirect Discharges," and 257 CMR 2.00, "Certification of Operators of Wastewater Treatment Facilities."
  - a. The facility has been rated (in accordance with 257 CMR 2.00), to be a Grade **4** facility. Therefore, the permittee shall provide for oversight by a Massachusetts Certified Wastewater Treatment plant operator (Chief Operator) Grade **4** or higher. The permittee will also provide for an assistant chief operator who shall possess at least a valid Grade **3** license.
  - b. The date and time of the operator's inspection along with the operator's name and certification shall be recorded in the logbook on location at the treatment facility. The logbook shall be a numbered and bound notebook. All daily inspection logs consistent with the Operation and Maintenance Manual requirements shall be kept at the facility for a period of three (3) years. The permittee shall maintain a current copy of the approved operation and maintenance manual on site at all times.
  - c. Records of operation of wastewater treatment facilities or disposal systems required by the Department shall be submitted on forms supplied by the Department or on other forms approved by the Department for such use. Monthly reports shall be certified by the wastewater treatment plant operator in charge and shall be included in the discharge monitoring reports submitted each month.
- 7) If the operation and maintenance of the facility is to be contracted to a third party, the permittee shall submit a copy of the contract, consistent with what is required by the approved Operation & Maintenance manual and signed only by the contractor, to the appropriate MassDEP Regional Office for review and approval ninety (90) days **prior** to the startup of the facility. Along with the contract, a detailed listing of all contract operation obligations of the proposed contractor at other facilities shall also be submitted. The permittee shall not execute the contract and authorize the contract operator to operate the facility unless and until the Department has approved the contract. The contract will be presumed approved if the Department does not issue written approval, conditional approval, denial or request for further information within ninety days after submittal. The permittee shall notify the Department in writing within seven days of any change in contract operators.
- 8) Any additional connections to the sewer system, beyond the 471 bedrooms and 1000 square foot leasing office shall be approved by MassDEP and the local Board of Health prior to the connection.

- 9) All tests and other analytical determinations conducted by or on behalf of the permittee to determine compliance with permit standards and requirements shall comply with the following:
- a. All samples shall be collected, transported and stored in the manner outlined in Standard Methods for the Examination of Water and Wastewater, 22nd edition, published by the American Public Health Association, American Water Works Association, and the Water Environment Federation, 2016, and the latest EPA analytical procedures.
  - b. Samples and measurements taken for the purpose of monitoring shall be representative of the monitored activity. Monitoring must be conducted according to test procedures approved under 40 CFR Part 136 unless other test procedures are specified herein.
  - c. Samples shall be analyzed by a Massachusetts Certified laboratory, unless other means of sample analysis are identified and approved by the Department in writing.
- 10) The permittee shall notify the appropriate MassDEP Regional Office, in writing, within thirty (30) days of the following events:
- a. The date of treatment plant startup.
  - b. Any interruption of the treatment system operation, other than routine maintenance.
  - c. Final shutdown of the treatment system.
- 11) The permittee shall contract to have all solids and sludges generated by the treatment system for which this permit is issued removed off site by a properly licensed waste hauler for disposal at an EPA/MassDEP approved facility. The name and license number of the hauler along with the quantity of waste removed and the date(s) of removal shall be reported by the permittee within 30 days of the last day of the reporting month to MassDEP using eDEP.
- 12) Simultaneously with the permit renewal application at year fifteen (in **2041**) following the initiation of plant operations, the permittee shall submit two reports to the Department for its review and approval:
- a. An engineering report, prepared by a registered professional engineer, that outlines in sufficient detail what modifications (if any) to the facility or other changes are required to ensure that the facility can remain in compliance with its GWDP and other applicable requirements through the next 5-year permit term (year **2046**) and beyond; and

- b. A financial plan that contains the cost estimates for implementing the facility modifications or other changes identified in the engineering report, and describes and demonstrates how and when the permittee will finance the needed facility modifications or other changes.
- 13) In the event that effluent limits are not met, or the discharge is determined to impair the ability of the groundwater to serve as an actual or potential source of potable water in violation of 314 CMR 5.16(1), MassDEP may require the permittee to modify, supplement, or replace the permitted treatment process to ensure that the discharge complies with 314 CMR 5.16(1).
- 14) Pursuant to M.G.L. Chapter 21A, Section 18(a), and 310 CMR 4.03, holders of this Permit may be subject to annual compliance assurance fees as assessed each year on July 1st and invoiced by MassDEP. Failure of the Permit holder to pay applicable annual compliance assurance fees when due shall result in the automatic suspension of the permit by operation of law under the statute. If the permit is suspended, MassDEP may deny any other pending permit applications filed by or on behalf of the Permit holder. If fee non-payment continues for sixty days or more, MassDEP may revoke the Permit. Permit revocation for nonpayment of an annual compliance assurance fee does not prevent MassDEP from assessing any penalty or taking other appropriate enforcement action for violation of any permit condition, order, or other statutory or regulatory requirement. Permit holders are required to notify MassDEP in writing if they wish to relinquish or transfer a permit. Failure to do so will result in the continued assessment of annual compliance assurance fees.

**E. Notice of Appeal Rights for State Groundwater Discharge Permit**

Within 30 days of the issuance of MassDEP's decision to grant or deny a Groundwater Discharge Permit pursuant to M.G.L. c. 21, §43, and 314 CMR 5.00, any person aggrieved may request an adjudicatory hearing with MassDEP's Office of Appeals and Dispute Resolution (OADR). If a permit is modified under 314 CMR 2.10, only the modified terms and conditions may be subject to an Adjudicatory Appeal. All other aspects of the existing permit shall remain in effect during any such Adjudicatory Appeal.

**How should the request for an adjudicatory hearing be made?**

A request for an adjudicatory hearing for the state Groundwater Discharge Permit must be made during the 30-day period following issuance of the state permit, in accordance with 314 CMR 2.08 and 310 CMR 1.01. 310 CMR 1.01(6)(b) establishes the required form and content of the request. Failure to meet the requirements of 310 CMR 1.01 may result in dismissal of the request or the requirement to file a more definite statement.

A person filing a request for an adjudicatory hearing must complete and mail a MassDEP Adjudicatory Hearing Fee Transmittal Form and send it with a valid check to the Commonwealth Master Lockbox, as instructed in this document, if a fee is required by 310 CMR 4.06. [Download the MassDEP Adjudicatory Hearing Fee Transmittal Form.](#)

The written notice requesting an adjudicatory hearing shall be delivered to MassDEP's Case Administrator together with (i) a copy of the decision being appealed, (ii) a copy of the completed MassDEP Adjudicatory Fee Transmittal Form, if required, and (iii) a copy of the check used to pay any adjudicatory hearing filing fee due for the appeal under 310 CMR 4.06. The notice of claim and other items can be sent to OADR by mail, hand delivery, email ([Caseadmin.OADR@mass.gov](mailto:Caseadmin.OADR@mass.gov)) or fax ([learn more about submitting the notice of claim or other items](#)).

Please do not send the original of the completed MassDEP Adjudicatory Hearing Fee Transmittal Form and check to the Case Administrator. Instead, please follow the instructions in this document for delivery of the original of the completed Fee Transmittal Form and check to the Commonwealth Master Lockbox.

A \$100 adjudicatory hearing filing fee must be paid, unless (i) a simplified hearing is requested for a reduced fee of \$25, (ii) the person requesting an adjudicatory hearing is a city, town, county, or district of the Commonwealth, federally recognized Indian tribe housing authority effective January 14, 1994, or any municipal housing authority, in which case there is no fee, or (iii) the person requesting the hearing is seeking to have MassDEP waive the adjudicatory hearing filing fee because paying the fee will create an undue financial hardship.

A person who believes that payment of the fee would be an undue financial hardship shall file with the request for adjudicatory hearing a request for waiver of the fee together with an affidavit setting forth the facts the appellant believes constitute the undue financial hardship. For more information on the adjudicatory hearing filing fee and the grounds on which the Department may waive the fee, please see 310 CMR 4.06.

If a fee is required, the completed MassDEP Adjudicatory Hearing Fee Transmittal Form and a valid check made payable to the Commonwealth of Massachusetts for the amount of the fee due must be mailed to:

Mass. Department of Environmental Protection  
Commonwealth Master Lockbox  
P.O. Box 4062 Boston, Massachusetts 02211

Failure to pay the adjudicatory hearing filing fee, if required, may be grounds for dismissal of the appeal.

In accordance with 314 CMR 2.08(5), any person who files a request for an adjudicatory hearing with the Department pursuant to 314 CMR 2.08(2) on an individual permit, also shall simultaneously send a copy of the request by certified mail, return receipt requested, to the Permittee and Co-permittees (if applicable).

Pursuant to 314 CMR 2.08(2), the permit becomes effective unless the person requesting the adjudicatory hearing requests and is granted a stay of the terms and conditions of the permit.

### III. General Permit Conditions for Groundwater Discharge Permits

#### 314 CMR 5.16: General Conditions

The following conditions apply to all individual and general permits:

- (1) No discharge authorized in the permit shall cause or contribute to a violation of 314 CMR 4.00: *Massachusetts Surface Water Quality Standards*. Upon promulgation of any amended standard, the permit may be modified to comply with such standard in accordance with the procedures in 314 CMR 2.10: *Modification, Suspension, Revocation and Renewal of Permits and General Permit Coverage* and 314 CMR 5.12. Except as otherwise provided in 314 CMR 5.10(3)(c), 5.10(4)(a)2. and 5.10(9), no discharge authorized in the permit shall impair the ability of the ground water to serve as an actual or potential source of potable water. Evidence that a discharge impairs the ability of the ground water to serve as an actual or potential source of potable water includes, without limitation, analysis of samples taken in a downgradient well that demonstrates one or more exceedances of the applicable water quality based effluent limitations set forth in 314 CMR 5.10. In those cases where it is shown that a measured parameter exceeds the applicable water quality based effluent limitations set forth in 314 CMR 5.10 at the upgradient monitoring well, evidence that a discharge impairs the ability of the ground water to serve as an actual or potential source of potable water is deemed to exist if a measured parameter in any downgradient well exceeds the level of that same measured parameter in the upgradient well for the same sampling period. A statistical procedure approved by the Department shall be used to determine when a measured parameter exceeds the allowable level.
- (2) Duty to Comply. The permittee shall comply at all times with the terms and conditions of the permit, 314 CMR 5.00, M.G.L. c. 21, §§ 26 through 53, and all applicable state and federal statutes and regulations.
- (3) Standards and Prohibitions for Toxic Pollutants. The permittee shall comply with effluent standards or prohibitions established by § 307(a) of the Federal Act, 33 U.S.C. § 1317(a), for toxic pollutants within the time provided in the regulations that establish these standards or prohibitions, even if the permit has not yet been modified to incorporate the requirement.
- (4) Proper Operation and Maintenance. The permittee shall at all times properly operate and maintain all facilities and equipment installed or used to achieve compliance with the terms and conditions of the permit, 314 CMR 12.00: *Operation and Maintenance and Pretreatment Standards for Wastewater Treatment Works and Indirect Discharges*, and 257 CMR 2.00: *Certification of Operators of Wastewater Treatment Facilities*. All equipment shall be maintained in an acceptable condition for its intended use.
- (5) Duty to Halt or Reduce Activity. Upon reduction, loss, or failure of the treatment facility, the permittee shall, to the extent necessary to maintain compliance with its permit, control production, discharges, or both, until the facility is restored or an alternative

method of treatment is provided. A permittee may not raise as a defense in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of the permit.

- (6) Power Failure. In order to maintain compliance with the effluent limitations and prohibitions of the permit, the permittee shall either:
  - (a) provide an alternative power source sufficient to operate the wastewater control facilities; or
  - (b) halt, reduce or otherwise control production or all discharges upon the reduction, loss, or failure of the primary source of power to the wastewater control facilities.
- (7) Duty to Mitigate. The permittee shall take all reasonable steps to minimize or prevent any adverse impact on human health or the environment resulting from non-compliance with the permit. Additionally, the permittee shall take all necessary steps to prevent an operational upset of the PWTf or POTW.
- (8) Duty to Provide Information. The permittee and any operator of the permitted facility shall furnish to the Department within a reasonable time as specified by the Department any information which the Department may request to determine whether cause exists for modifying, suspending, revoking and reissuing, or terminating the permit, or to determine whether the permittee is complying with the terms and conditions of the permit.
- (9) Inspection and Entry. The permittee shall allow the Department or its authorized representatives to:
  - (a) Enter upon the permittee's premises where a regulated facility or activity is located or conducted, or where records required by the permit are kept;
  - (b) Have access to and copy, at reasonable times, any records that must be kept under the conditions of the permit;
  - (c) Inspect at reasonable times any facilities, equipment, practices, or operations regulated or required under the permit; and
  - (d) Sample or monitor at reasonable times for the purpose of determining compliance with the terms and conditions of the permit.
- (9A) The permittee shall physically secure the treatment works and monitoring wells and limit access to the treatment works and monitoring wells only to those personnel required to operate, inspect and maintain the treatment works and to collect samples.
- (9B) The permittee shall identify each monitoring well by permanently affixing to the steel protective casing of the well a tag with the identification number listed in the permit.
- (10) Monitoring. Samples and measurements taken for the purpose of monitoring shall be representative of the monitored activity. Monitoring must be conducted according to test procedures approved under 40 CFR Part 136 unless other test procedures are specified in the permit.

- (11) Recordkeeping. The permittee shall retain records of all monitoring information, including all calibration and maintenance records and all original strip chart recordings for continuous monitoring instrumentation, copies of all reports required by the permit, and all records of all data used to complete the application for the permit, for a period of at least five years from the date of the sample, measurement, report or application. This period may be extended by request of the Department at any time. Records of monitoring information shall include without limitation:
- (a) The date, exact place, and time of sampling or measurements;
  - (b) The individual(s) who performed the sampling or measurement;
  - (c) The date(s) analyses were performed;
  - (d) The individual(s) who performed the analyses;
  - (e) The analytical techniques or methods used; and
  - (f) The results of such analyses.
- (12) Prohibition of Bypassing. Except as provided in 314 CMR 5.16(13), bypassing is prohibited and the Department may take enforcement action against a permittee for bypassing unless:
- (a) The bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;
  - (b) There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if the permittee could have installed adequate backup equipment to prevent a bypass which occurred during normal periods of equipment downtime or preventive maintenance; and
  - (c) The permittee submitted notice of the bypass to the Department:
    - 1. In the event of an anticipated bypass, at least ten days in advance, if possible; or
    - 2. In the event of an unanticipated bypass, as soon as the permittee has knowledge of the bypass and no later than 24 hours after its first occurrence.
- (13) Bypass not Exceeding Limitations. The permittee may allow a bypass to occur which does not cause effluent limitations to be exceeded, but only if necessary for the performance of essential maintenance or to assure efficient operation of treatment facilities.
- (14) Permit Actions. The permit may be modified, suspended, or revoked for cause. The filing of a request by the permittee for a permit modification, reissuance, or termination, or a notification of planned changes or anticipated non-compliance does not stay any permit condition.
- (15) Duty to Reapply. If the permittee wishes to continue an activity regulated by the permit after the expiration date of the permit, the permittee must apply for and obtain a new permit. The permittee shall submit a new application at least 180 days before the

expiration date of the existing permit, unless permission for a later date has been granted by the Department in writing.

- (16) Property Rights. The permit does not convey any property rights of any sort or any exclusive privilege.
- (17) Other Laws. The issuance of a permit does not authorize any injury to persons or property or invasion of other private rights, nor does it relieve the permittee of its obligation to comply with any other applicable Federal, State, or local law, or regulation.
- (18) Oil and Hazardous Substance Liability. Nothing in the permit shall be construed to preclude the institution of any legal action or relieve the permittee of any responsibilities, liabilities, or penalties to which the permittee is or may be subject under § 311 of the Federal Act, 33 U.S.C. § 1321, and M.G.L. c. 21E.
- (19) Removed Substances. Solids, sludges, filter backwash, or other pollutants removed in the course of treatment or control of wastewaters shall be disposed in a manner consistent with applicable Federal and State laws and regulations including, but not limited to, the Massachusetts Clean Waters Act, M.G.L. c. 21, §§ 26 through 53, and the Federal Act, 33 U.S.C. § 1251 *et seq.*, the Massachusetts Hazardous Waste Management Act, M.G.L. c. 21C, and the Federal Resource Conservation and Recovery Act, 42 U.S.C. § 6901, *et seq.*, 310 CMR 19.000: *Solid Waste Management* and 310 CMR 30.000: *Hazardous Waste*.
- (20) Reporting Requirements.
  - (a) Monitoring Reports. Monitoring results shall be reported on a Discharge Monitoring Report (DMR) at the intervals specified in the permit. If a permittee monitors any pollutant more frequently than required by the permit, the results of this monitoring shall be included in the calculation and reporting of the data submitted in the DMR. Beginning on December 2, 2017, a permittee shall submit all DMRs electronically, using the electronic reporting system designated by the Department. A permittee may seek a waiver of this requirement by submitting a written request for the Department's approval.
  - (b) Compliance Schedules. Reports of compliance or non-compliance with, or any progress reports on interim and final requirements contained in any compliance schedule in the permit shall be submitted no later than 14 days following each schedule date.
  - (c) Planned Changes. The permittee shall give notice to the Department as soon as possible of any planned physical alterations or additions to the permitted facility or activity which could significantly change the nature or increase the quantity of pollutants discharged. Unless and until the permit is modified, any new or increased discharge in excess of permit limits or not specifically authorized by the permit constitutes a violation.

- (d) Anticipated Non-compliance. The permittee shall give advance notice to the Department of any planned changes in the permitted facility or activity which may result in non-compliance with permit requirements.
- (e) 24 Hour Reporting. The permittee shall report any non-compliance which may endanger health or the environment. Any information shall be communicated orally within 24 hours of the time the permittee becomes aware of the circumstances. A written submission shall also be provided within five days of the time the permittee becomes aware of the circumstances. The written submission shall contain: a description of the non-compliance, including exact dates and times, and if the non-compliance has not been corrected, the anticipated time it is expected to continue; and steps taken or planned to reduce, eliminate, and prevent reoccurrence of the non-compliance. The following shall be included as information which must be reported within 24 hours:
  - 1. Any unanticipated bypass which exceeds any effluent limitation in the permit; and
  - 2. Any violation of a maximum daily discharge limitation for any of the pollutants required by the permit to be reported within 24 hours.
- (f) Other Non-compliance. The permittee shall report all instances of non-compliance not reported under 314 CMR 5.16(20)(a), (b), or (e) at the time monitoring reports are submitted. The reports shall contain the information listed in 314 CMR 5.16(20)(e).
- (g) Toxics. All manufacturing, commercial, mining, or silvicultural dischargers must notify the Department as soon as they know or have reason to believe:
  - 1. That any activity has occurred, or will occur, that would result in the discharge of any toxic pollutant listed in 314 CMR 3.17: *Appendix B - Toxic Pollutants* not limited by the permit, if that discharge will exceed the highest of the following notification levels:
    - a. 100 micrograms per liter (100 ug/l);
    - b. 200 micrograms per liter (200 ug/l) for acrolein and acrylonitrile, 500 micrograms per liter (500 ug/l) for 2,4-dinitrophenol, and for 2-methyl-4,6-dinitrophenol, and one milligram per liter (1 mg/l) for antimony;
    - c. Five times the maximum concentration value reported for that pollutant in the permit application; or
  - 2. That they have begun or expect to begin to use or manufacture as an intermediate or final product or byproduct any toxic pollutant which was not reported in the permit application.
- (h) Indirect Dischargers. All Publicly Owned Treatment Works shall provide adequate notice to the Department of the following:
  - 1. Any new introduction of pollutants into the POTW from an indirect discharger which would be subject to § 301 or § 306 of the Federal Act, 33 U.S.C. § 1311 or 1316, if it were directly discharging those pollutants; and

2. Any substantial change in the volume or character of pollutants being introduced into the POTW by a source introducing pollutants into the POTW at the time of issuance of the permit.
  - (i) Information. Where a permittee becomes aware that it failed to submit any relevant facts in a permit application, or submitted incorrect information in a permit application or in any report to the Department, it shall promptly submit the relevant facts or correct information.
  - (j) The permittee shall notify the Department in writing within seven days of any change in contract operators.
- (21) Signatory Requirement. All applications, reports, or information submitted to the Department shall be signed and certified in accordance with 314 CMR 5.14 and 5.15.
- (22) Severability. The provisions of the permit are severable. If any provision of the permit or the application of any provision of the permit to any circumstance, is held invalid, the application of such provision to other circumstances, and the remainder of the permit, shall not be affected thereby.
- (23) Reopener Clause. The Department reserves the right to make appropriate revisions to the permit to establish any appropriate effluent limitations, schedules of compliance, or other provisions, as authorized by the Massachusetts Clean Waters Act, M.G.L. c. 21, §§ 26 through 53, or the Federal Act, 33 U.S.C. § 1251 *et seq.*, to bring all discharges into compliance with these statutes.
- (24) Approval of Treatment Works. All discharges and associated treatment works authorized in 314 CMR 5.00 shall remain in compliance with the terms and conditions of the permit. Any modification of the approved treatment works shall require written approval of the Department prior to the construction of the modification.
- (25) Transfer of Permits.
  - (a) RCRA Facilities. Any permit which authorizes the operation of a RCRA facility subject to the requirements of 314 CMR 8.07: *Standards for all other RCRA Facilities* shall be valid only for the person to whom it is issued and may not be transferred.
  - (b) Transfers by Modification. Except as provided in 314 CMR 5.16(25)(a) and (c), a permit may be transferred by the permittee to a new permittee if the permit has been modified or revoked and reissued in accordance with 314 CMR 5.12(2), or a minor modification is made to identify the new permittee in accordance with 314 CMR 5.12(3) and (4).
  - (c) Automatic Transfers. For facilities other than Privately Owned Wastewater Treatment Facilities (PWTFs) that treat at least some sewage from residential uses, hospitals, nursing or personal care facilities, residential care facilities, or assisted living facilities, PWTFs that have been required to establish, fund and maintain financial assurance mechanism(s) pursuant to 314 CMR 5.15(6), and RCRA facilities subject to the requirements of 314 CMR 8.07: *Standards for all*

*other RCRA Facilities*, a permit may be automatically transferred in accordance with 314 CMR 5.12(5).

- (26) Permit Compliance Fees and Inspection Information. Except as otherwise provided, any permittee required to obtain a ground water discharge permit pursuant to M.G.L. c. 21, § 43, and 314 CMR 5.00 shall submit the annual compliance assurance fee established in accordance with M.G.L. c. 21A, § 18 and 310 CMR 4.00: *Timely Action Schedule and Fee Provisions*, as provided in 314 CMR 2.12: *Applications, Fees and Inspection Information*. The requirement to submit the annual compliance fee does not apply to any local government unit other than an authority. Any permittee required to obtain a ground water discharge permit pursuant to M.G.L. c. 21, § 43 and 314 CMR 5.00, may be required to submit inspection information annually, as provided in 314 CMR 2.12